

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SUNCO GROUP INC., :

Plaintiff, :

-against- :

EARTH BIOFUELS, INC., :

Defendant. :

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WILLIAM H. PAULEY III, District Judge:

Defendant's motion to dismiss (Docket No. 3) is stricken.

Dated: January 22, 2008
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

Counsel of Record:

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ORDER